

COOPERATIVE AGREEMENT
between the
NEBRASKA STATE DEPARTMENT OF SOCIAL SERVICES
and the
NEBRASKA STATE DEPARTMENT OF HEALTH
relating to
THE NEBRASKA MEDICAL ASSISTANCE PROGRAM

Summary

WHEREAS, the Nebraska State Department of Social Services has been delegated by State Law the duty to administer and implement the State of Nebraska Medical Assistance Program; and,

WHEREAS, the Nebraska State Department of Health has been delegated by State Law the duty to license health care facilities;

THEREFORE, IT IS HEREBY MUTUALLY AGREED by and between the Nebraska State Department of Social Services and the Nebraska State Department of Health for the purposes of carrying out certain functions necessary for the administration and implementation of the State of Nebraska Medical Assistance Program in accordance with the authority delegated by Section 68-1021, R.R.S. 1943; that the Nebraska State Department of Social Services contracts with the Nebraska State Department of Health to determine whether certain health care facilities meet applicable standards for certification as providers in this program.

I. Definitions

For the purposes of this Agreement, the parties agree that the following definitions shall apply:

A. The term "provider of services" means a hospital, skilled nursing facility, intermediate care facility, home health agency, or other provider subsequently recognized and defined by Federal directive and covered by the State Medicaid Plan.

B. The term "hospital" means an institution described in Section 1861(e) of the Social Security Act, and includes a "psychiatric hospital" as described in Section 1861(f) of such Act and subsequent changes.

C. The term "skilled nursing facility" means an institution (or distinct part of an institution) which meets the requirements specified in Sections 1902(a)(28) and 1982(a)(29) of the Social Security Act, and subsequent changes, and all other requirements specified by the State Plan of the Department of Social Services.

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D. The term "intermediate care facility" means an institution (or distinct part of an institution) which meets the requirements specified in Title 42 C.F.R. Part 442, Subpart E and subsequent changes, and all other requirements specified by the State Plan of the Department of Social Services and found also in Section 11.21, Title XI of the Social Security Act.

E. The term "home health agency" means an agency as described in Section 1861(o) of the Social Security Act, and subsequent changes.

F. Department of Social Services shall mean the Nebraska State Department of Social Services.

G. Department of Health shall mean the Nebraska State Department of Health.

H. Director of Social Services shall mean the Director of the Nebraska State Department of Social Services.

I. Director of Health shall mean the Director of the Nebraska State Department of Health.

J. The term "medical review" shall mean an evaluation by a physician of the individual's physical and mental condition and the kinds and amounts of care such individual requires, as defined in Title 42 C.F.R. Part 456, Subpart F and Subpart I.

K. The term "state plan" shall mean the State Plan for Medical Assistance (Title XIX) of July 1, 1966 related policies of interpretations, regulations, and subsequent revisions thereof.

II. Duties

A. Department of Health

The Department of Health shall be responsible either through the personnel of the Department of Health or through sub-agreements with other agencies or organizations, as the Department of Health determines, to:

1. Certify to the Director of Social Services, upon the application of a provider of services for certification to the Director of Social Services, whether or not an institution is a "hospital" (and, in appropriate cases, whether or not an institution is a "psychiatric hospital") or a "skilled nursing facility" or an "intermediate care facility", or whether or not an agency is a "home health agency", or other recognized provider, in accordance with Federal requirements;

2. Survey any institution or agency requesting a determination of status as a "provider of services", to the extent required by and in accordance with standards prescribed by the Director of the Department of Social Services;

3. Certify to the Director of Social Services an institution or agency as a provider of services as described in Section 1902(a)(33) of the Social Security Act, upon determination by the Department of Health that such institution or agency meets the requirements for participation in the Nebraska Medical Assistance Program;

4. Resurvey any institution or agency, previously determined to be a provider of services, at such times as required by the appropriate program, to ascertain whether or not such institution or agency continues to qualify as a provider of services; such investigative and survey activities shall include investigation of all complaints referred to the Department of Health by the Department of Social Services, and which involve skilled nursing facilities, intermediate care facilities or other recognized providers;

5. Notify the Director of Social Services that an institution or agency is not initially or no longer continues to qualify as a provider of services, if the Department of Health so determines; and

6. Complete an annual, on-site survey to determine compliance with Title VI of the Civil Rights Act of 1964 of facilities participating in the Title XIX (Medicaid) program.

The functions above outlined and those described in 42 CFR Part 442 shall be the responsibility of the Department of Health.

B. Department of Social Services

The Department of Social Services shall be responsible to:

1. At such times as are deemed necessary, or at the request of the Department of Health, provide program interpretations of Department of Health responsibilities relating to the Nebraska Medical Assistance Program; and

2. Meet the requirements of periodic and medical reviews for those persons receiving Medical Assistance in skilled nursing facilities and intermediate care facilities to the extent required by Federal law or regulation with copies of such reports provided to the Department of Health.

C. Notice

1. All surveys or resurveys will be completed and certifications or decertifications made, and notice thereof submitted to the Department of Social Services prior to the expiration of a facility's existing provider agreement, if any.

2. The results of all investigations and a statement of any corrective actions initiated will be submitted to the Department of Social Services on a time frame in accordance with Federal requirements.

3. Within 60 days of any survey relative to the compliance of a health care provider with the conditions of participation in Title XIX, the Department of Health will transmit pertinent information to the Department of Social Services for public disclosure as prescribed in Section 1902(a) as amended by Section 299D of P.L. 92-603.

D. Procedure

1. In connection with the making of certifications whether an institution is a recognized facility the functions of the Department of Health will include, but not be limited to:

(a) Listing and identifying those institutions and agencies within the State which perform medical care activities generally performed by "providers of services"; and,

(b) Transmitting to such institutions and agencies the requirements and conditions as promulgated for qualifying as providers of services.

2. The Department of Health will provide consultative services as described in Section 1902(a)(24) of the Social Security Act. In providing these consultative services, the functions of the Department of Health will include, but not be limited to, the inspecting of any institution to determine what improvements to or revisions of its operation are required in order to enable the institution or agency to qualify as a provider of services, the making of recommendations to or revision of its operation and the reporting of the operation of the institution or agency, and informing the Director of Social Services of any such findings and recommendations made with respect to such institution or agency.

3. In making findings, certifications, and reports, the Department of Health shall apply the standards prescribed by the Director of Social Services in the Department of Social Services State Plan adopted pursuant to 42 CFR 442, Subpart C for the participation by providers of services in the Nebraska Medical Assistance Program.

E. General

No provision of this Agreement shall be construed as increasing, decreasing, or altering in any manner the duties and responsibilities required of the Department of Health or any other state agency by State laws and regulations promulgated thereto with respect to State inspection and licensure of hospitals, homes for the aged or infirm, and related medical and care facilities.

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III. Fiscal

A. General

1. The Department of Social Services shall reimburse the Department of Health monthly for the reasonable and necessary costs of performing the functions authorized by this Agreement. Such costs will be determined on a basis directly proportionate to the time and effort expended in surveying and certifying Title XIX facilities. The cost of such activities involving facilities participating in both Title XVIII and Title XIX programs will be allocated to the two programs as indicated by Federal directives.
2. All estimates and reports of expenditures and other reports required under Section III will be prepared in accordance with appropriate budgetary and accounting methods and administrative practices adopted by the Director of Health and the Director of Social Services. The Department of Health will furnish or make available such information as is required to substantiate any estimate, expenditure or report, as requested by the Director of Social Services or as may be necessary for auditing purposes or to verify that expenditures were made only for purposes authorized by this Agreement.
3. The Department of Health will comply with §4540 of the State Operations Manual which is incorporated by reference, with respect to the responsibility of and the accountability by the Department of Health for property purchased by it with funds certified by the Director of Social Services to it under this Agreement.
4. The records maintained or submitted to the Department of Social Services shall include the names of employees, salaries paid, hours of performance, and specification of duties.

B. Procedure

1. The Department of Health will submit cost estimates as may be requested by the appropriate Federal program agency and the Director of Social Services. Such costs will not include costs which may be allocated to any other agency or organization for performing functions similar to or related to those functions described in this Agreement, but shall include the costs to the Department of Health for the performance by other agencies or organizations under sub-agreements to this Agreement.
2. After considering all pertinent information and after prior consultation with the Director of Health, the Director of Social Services will determine the amounts of funds that are necessary to administer this Agreement for a particular period and that are available to carry out the purpose of this Agreement. The Director of Social Services will notify the Department of Health of the amount which will be certified for payment to it for such period.

The Department of Health will not incur or make expenditures for such period which will exceed the amount of payment the Director of Social Services certifies for such period.

3. By the 15th day of the following month the Department of Health will submit a report of its actual expenditures for such month in such manner as may be agreed upon between the Director of Health and the Director of Social Services. The Director of Social Services will determine whether such expenditures were necessary for the performance of the functions authorized by this Agreement under standards agreed upon between the Director of Health and the Director of Social Services in effect at the time such expenditures were made or incurred; and upon said determination pay the same.

C. Dispute Resolution

If the Director of Social Services determines that any expenditures were not necessary for the purpose of carrying out the terms of this Agreement, the Director of Social Services shall so inform the Department of Health of tentative exceptions taken, with full explanation. The Department of Health thereupon will be given a reasonable length of time, of not less than thirty days, to justify such expenditures. If the Director of Social Services thereafter finds that such expenditures are not necessary to the performance of the functions authorized by this Agreement, the total amount of reimbursement for such period shall be reduced by an amount so determined by the Director of Social Services to be not necessary for the performance of such functions. If the Director of Social Services determines that the Department of Health has not justified such expenditures, the Department of Health may request a hearing under the administrative hearing procedure of the Department of Social Services and under Chapter 84, Article 9 of the Nebraska Revised Statutes.

IV. Reports

1. The Department of Health will make reports in such form, using such methods and containing such information as the Director of Social Services may reasonably require in accordance with Federal Regulations. Reports of surveyors will be complete and will note thereon whether or not each requirement for which an inspection is made is satisfied; and will document deficiencies.

2. The Department of Health will comply with instruction as the Director of Social Services may issue to insure the correctness of such reports, including provisions made for the inspection and review at all reasonable times, of fiscal, statistical and other records of the Department of Health (such inspection and review to be at the offices of the Department of Health) and for the review of operations, within the scope of this Agreement. The Department of Health shall maintain such fiscal, statistical and other records for a period of at least three years after the date of preparation of any such record. All records and reports relative to this Agreement

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or a modification of it shall be subject to examination by authorized representatives of the Secretary, United States Department of Health and Human Services and authorized representatives of the United States General Accounting Office.

V. Organization and Personnel

With the exception of personnel and facilities covered under the provisions of any sub-agreement between the Department of Health and other agencies or organizations, the Department of Health will provide such facilities and employ such qualified personnel as are necessary to carry out the provisions of this Agreement expeditiously and efficiently. Such personnel shall be subject to the jurisdiction of the Department of Health.

Personnel employed or utilized by the Department of Health in carrying out the provisions of this Agreement shall be subject to the Nebraska State Personnel system, in accordance with Federal standards and will be made available to attend such meetings or conferences as may be appropriate for furthering the purposes of this Agreement, at the expense of the Department of Social Services.

VI. COMPLIANCE WITH CONTRACT OBLIGATIONS AND WITH REGULATIONS

The parties recognize that this Agreement is a delegation by the Department of Social Services of certain of its obligations under its contract with the United States Department of Health and Human Services, as authorized by §1902 of the Social Security Act, therefore the Department of Health agrees to assume duties and obligations regarding budgeting, inspection standards, record keeping and auditing as set out in 42 CFR 431.610, remedies and termination as set out in 42 CFR 405.1092, hearing procedures as set out in 42 CFR part 430 Subpart D and E, confidentiality provisions set out in 42 CFR part 430 Subpart F, and licensure assurances set out in 42 CFR part 430, Subpart N, which duties and obligations are adopted herein by reference.

The Department of Health may in accordance with Section 1902 and as outlined in the State Operations Manual, H.C.F.A. Publication #7, part 4, section 4006 enter into subagreements with the Nebraska State Fire Marshal to provide Life Safety Code surveys. All duties and obligations assumed by the Department of Health shall also be assumed by the Nebraska State Fire Marshall to the extent applicable to the subagreement.

VII. MODIFICATION AND TERMINATION

A. This Agreement may be modified at any time by mutual consent of the parties hereto.

B. Either the Director of Health or the Director of Social Services may terminate this Agreement without cause on 90 days advance notice in writing to the other.

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C. Either party may terminate this Agreement upon 10 days' written notice, for the following reasons:

1. If either director finds his/her department is no longer legally able to comply substantially with any provisions of this agreement; provided that Director notify the other department in writing, and the other director may require certification of such fact from the other department, accompanied by an opinion of the Nebraska State Attorney General that the Department of Health or the Department of Social Service is no longer legally able to comply substantially with any provision of this Agreement;

2. If either director determines that the other department has failed to comply substantially with any provisions of this agreement.

VIII. TERM

This Agreement shall be effective upon the signature of both directors and shall continue in effect until September 31, 1986, and shall be automatically renewed from year to year thereafter unless otherwise modified or terminated pursuant to this Agreement.

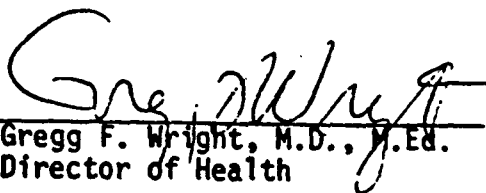
AGREED FOR THE DEPARTMENT OF SOCIAL SERVICES, STATE OF NEBRASKA

Date


Gina C. Dunning
Director, Department of
Social Services

AGREED FOR THE DEPARTMENT OF HEALTH, STATE OF NEBRASKA

5/28/86
Date
Gru


Gregg F. Wright, M.D., M.Ed.
Director of Health

APPROVED AS TO FORM

BY 
OFFICE OF THE GENERAL COUNSEL

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Addendum Number One to State of Nebraska Agreement Between the Department of Health and Department of Social Services (formerly Public Welfare)

COOPERATIVE AGREEMENT
BETWEEN THE
NEBRASKA DEPARTMENT OF HEALTH, IMMUNIZATION PROGRAM
AND
DEPARTMENT OF SOCIAL SERVICES, MEDICAL ASSISTANCE PROGRAM

A. Purpose

This Addendum to the Cooperative Agreement between the Department of Health and Department of Social Services (formerly Public Welfare) under Federal regulation 42 CFR 431.615 is established to assure that the target population of beneficiaries receive adequate immunizations and maintain safe immunization status. Subsequent references to Agreement shall mean Addendum to the Cooperative Agreement between the Department of Health and Department of Social Services. This Agreement shall assure the following:

1. The development of a cooperative and collaborative relationship at the State level to assure provision of services.
2. A joint plan to establish a fiscal relationship to assure the maximum utilization of funds in the most efficient manner in providing services.

B. Parties to the Agreement

The parties to this Agreement are the Nebraska Department of Social Services for the Medical Assistance Program (Title XIX) and the Nebraska Department of Health for the Immunization Program. For the purpose of this Agreement, the Department Directors are authorized to enter into agreements and make commitments which shall be binding on the operating of Title XIX and the Immunization Program. The provisions of the parent agreement apply to this Agreement.

C. Goal

The goal is disease prevention and protection through proper immunization levels to Title XIX/Immunization Program eligible children under 21. It is understood by the parties to this Agreement that the goal is obtained within the constraints of available resources.

D. Mutual Objectives and Responsibilities:

The Immunization Program and Title XIX Program have jointly committed fiscal and personnel resources to improve the quality of health by decreasing the incidence of preventable childhood disease and improving the levels of immunizations as an effective means of disease prevention and health maintenance by counteracting the incidence of measles, and by assuring control of polio, diphtheria, pertussis, tetanus, mumps, rubella, and hemophilus influenzae.

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It is further agreed by the parties that each shares responsibility in the attainment of the following mutual objectives:

1. To develop a mechanism to purchase, deliver, and supply immunization vaccine to Immunization Program-certified/Title XIX-enrolled physicians for Medicaid-eligible children.
2. To develop procedures to assure accountability of the services provided.

It is further agreed by the parties that the following responsibilities shall persist:

1. Responsibilities of the Department of Social Services Title XIX Program:
 - a. Payment of vaccine for Medicaid-eligible children.
 - b. Coordination of the distribution of the aforementioned vaccines, including: 1) insuring the appropriate manpower necessary to pack the vaccines prior to distribution; 2) the purchase of those containers and materials necessary in order to distribute the pharmaceutical products; 3) assuming the costs for mailing the aforementioned vaccines to physicians; and 4) coordinating the hand-delivery of vaccines using Immunization and/or Social Services XIX staff when feasible.
2. Responsibilities of the Department of Health Immunization Program:
 - a. Ordering and storage of vaccines.
 - b. Assisting the Department of Social Services Title XIX Program in the packaging and delivery of vaccines.

E. Methods of Payment or Reimbursement

1. Upon mutual agreement of usage demand and supply, the Department of Health Immunization Program will order the vaccine from their contracted supply agent. The Department of Health Accounting will submit proof of purchase and billing to the Department of Social Services, Finance and Accounting.
2. Upon receipt of the billing document the Department of Social Services Finance and Accounting will reimburse the Department of Health Accounting for said order of vaccine.
3. In exchange for the storage, inventory control and partial delivery of the vaccines to physicians for use in Medicaid-eligible children, the Department of Social Services shall transfer to the Department of Health for use as deemed appropriate by the Immunization Program and in accordance with State and Federal rules, regulations and policies, vaccine doses as follows:
 - a. For DTP, MMR and oral polio vaccine, the Department of Health shall receive vaccine-specific amounts equal to 5.0% of the number of doses administered; i.e., for every 200 doses of Social Services funded MMR administered, the Department shall receive 10 doses of MMR; for every 200 doses of DTP administered, the Department shall receive 10 doses of MMR.

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